

Ryan Lawrence  
 Name  
308 Los Tomases dr NW  
Albuquerque NM 87107  
 Address

FILED  
 UNITED STATES DISTRICT COURT  
 DISTRICT OF NEW MEXICO

19 SEP 26 AM 8:37 *CD*

CLERK-ALBUQUERQUE

UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF NEW MEXICO

Ryan Matthew Lawrence, Plaintiff  
 (Full Name)

CASE NO. 19cv897-LF  
 (To be supplied by the Clerk)

v.

VA hospital (ABQ), Defendant(s)  
VAMC

CIVIL RIGHTS COMPLAINT  
 PURSUANT TO 42 U.S.C. §1983

A. JURISDICTION

1) Ryan Lawrence, is a citizen of New Mexico  
 (Plaintiff) (State)  
 who presently resides at 3008 Los Tomases dr NW  
 (Mailing address or place of confinement)  
Albuquerque, NM 87107

2) Defendant VAMC hospital (albuquerque) is a citizen of  
 (Name of first defendant)  
Albuquerque, New Mexico, and is employed as  
 (City, State)  
 . At the time the claim(s)  
 (Position and title, if any)

alleged in this complaint arose, was this defendant acting under color of state law?

Yes ☒

No ☐

If your answer is "Yes", briefly explain:

*the nurse should have stopped treatment  
 when I was complaining.*

3) Defendant \_\_\_\_\_ is a citizen of \_\_\_\_\_  
(Name of second defendant)

\_\_\_\_\_, and is employed as \_\_\_\_\_  
(City, State)

\_\_\_\_\_. At the time the claim(s)  
( Position and title, if any)

alleged in this complaint arose, was this defendant acting under color of state.

Yes ☐ No ☐ If your answer is "Yes", briefly explain:

(Use the back of this page to furnish the above information for additional defendants.)

4) Jurisdiction is invoked pursuant to 28 U.S.C. §1343(3), 42U.S.C. §1983. (If you wish to assert Jurisdiction under different or additional statutes, you may list them below.)

## B. NATURE OF THE CASE

1) Briefly state the background of your case.

see attachment A

### C. CAUSE OF ACTION

- 1) I allege that the following of my constitutional rights, privileges or immunities have been violated and that the following facts form the basis for my allegations: (If necessary, you may attach up to two additional pages (8 1/2" x 11") to explain any allegation or to list additional supporting facts.

A)(1) Count I:

See Attachment B C

(2) Supporting Facts: (Include all facts you consider important, including names of persons involved, places and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument.)

B)(1) Count II:

(2) Supporting Facts:

C)(1) Count III:

(2) Supporting Facts:

D) PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1) Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to the conditions of your imprisonment?

Yes ☒ No ☐ If your answer is "YES", describe each lawsuit. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

see attachment B

a) Parties to previous lawsuit.

Plaintiffs: \_\_\_\_\_

Defendants: \_\_\_\_\_

b) Name of court and docket number:

c) Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

d) Issues raised: \_\_\_\_\_

e) Approximate date of filing lawsuit: Feb 1, 2019

f) Approximate date of disposition: \_\_\_\_\_

- 2) I have previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part C. Yes ☐ No ☐ If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No," briefly explain why administrative relief was not sought.

E. REQUEST FOR RELIEF

- 1) I believe that I am entitled to the following relief:

*\$600,000.00 or \$15,000.00 dollars a year that my hearing declines.*

\_\_\_\_\_  
Signature of Attorney (if any)

  
\_\_\_\_\_  
Signature of Petitioner

Attorney's full address and telephone number.

DECLARATION UNDER PENALTY OF PERJURY


The undersigned declares under penalty of perjury that he is the plaintiff in the above action, that he has read the above complaint and that the information contained therein is true and correct. 28 U.S.C. Sec. 1746. 18 U.S.C. Sec. 1621.

Executed at \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_  
(Location) (Date)

\_\_\_\_\_  
(Signature)

Attachment A

During RTMs treatment therapy the VAMC breached its duty to provide safe care resulting in left ear hearing loss and tinnitus. In the last week of the RTMs treatment the magnet was malfunctioning due to either operator error from improper handling and dropping of the magnet, manufactures technicalities, improper equipment or all three. After I complained about the nurse and the magnet to Dr. Carty he sent the magnet back to the manufacturer. Wherein the manufacturer augmented several parts of the magnet and claimed that it was working fine. The arm which holds the magnet and which also causes massive vibrations in which it impacts the patients head forcefully is still in use. I was told that there were better models that the VAMC was unwilling to pay for. I complained the last week of the RTMs therapy about the arm being to loose and hitting my head extremely forcefully and was assured by the nurse that all the equipment was working properly. I stopped treatment after not being able to withstand the treatment because of these massive vibrations. I immediately had ear problems on the left side of the head where the malfunctioning magnet was. Soon thereafter I begun to have ringing in my ears (tinnitus) and had an audiology test which confirmed hearing loss in my left ear.

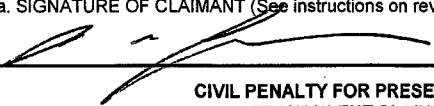
Ryan Lawrence  


Attachment B

Attached is a tort claim I filed with the government. However, when I called and spoke with a government representative they informed me that after 6 months I have the right to file in federal court if nothing had been done. Lo and Behold not only had the government not done anything they informed me that they were working on tort claims from over 2 years ago and implied that would continue to be the case as they were not hiring anybody new.

Ryan Lawrence

A handwritten signature in black ink, appearing to be 'Ryan Lawrence', with a stylized, flowing script.

<b>CLAIM FOR DAMAGE, INJURY, OR DEATH</b>		<b>INSTRUCTIONS:</b> Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit To Appropriate Federal Agency: <i>Raymond G Murphy VA medical 1501 San Pedro Dr SE Albuquerque NM 87108</i>			2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, Street, City, State and Zip Code) <i>Ryan Lawrence 3008 Los Tomasos Dr NW Albuquerque NM 87107</i>		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN	4. DATE OF BIRTH <i>13 Oct 1977</i>	5. MARITAL STATUS -Select- <i>D</i>	6. DATE AND DAY OF ACCIDENT <i>8 Sept 18</i> -Select Day-		7. TIME (A.M. OR P.M.)
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary.) <i>See Attachment (A)</i>					
9. <b>PROPERTY DAMAGE</b>					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). <i>N/A</i>					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See Instructions on reverse side.) <i>N/A</i>					
10. <b>PERSONAL INJURY/WRONGFUL DEATH</b>					
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT. <i>tinnitus and injury to the left ear resulting in hearing loss</i>					
11. <b>WITNESSES</b>					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse.) <b>AMOUNT OF CLAIM (in dollars)</b>					
12a. PROPERTY DAMAGE <i>N/A</i>	12b. PERSONAL INJURY <i>\$ 600,000.00</i>	12c. WRONGFUL DEATH <i>N/A</i>	12d. TOTAL (Failure to specify may cause forfeiture of your rights.)  <i>\$0.00</i>		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) 		13b. Phone number of person signing form <i>505-235-8036</i>		14. DATE OF SIGNATURE <i>1 Feb 19</i>	
<b>CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM</b>  The claimant shall forfeit and pay to the United States the sum of \$2,000 plus double the amount of damages sustained by the United States. (See 31 U.S.C. 3729.)		<b>CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS</b>  Fine of not more than \$10,000 or imprisonment for not more than 5 years or both. (See 18 U.S.C. 287, 1001.)			

Attachment C

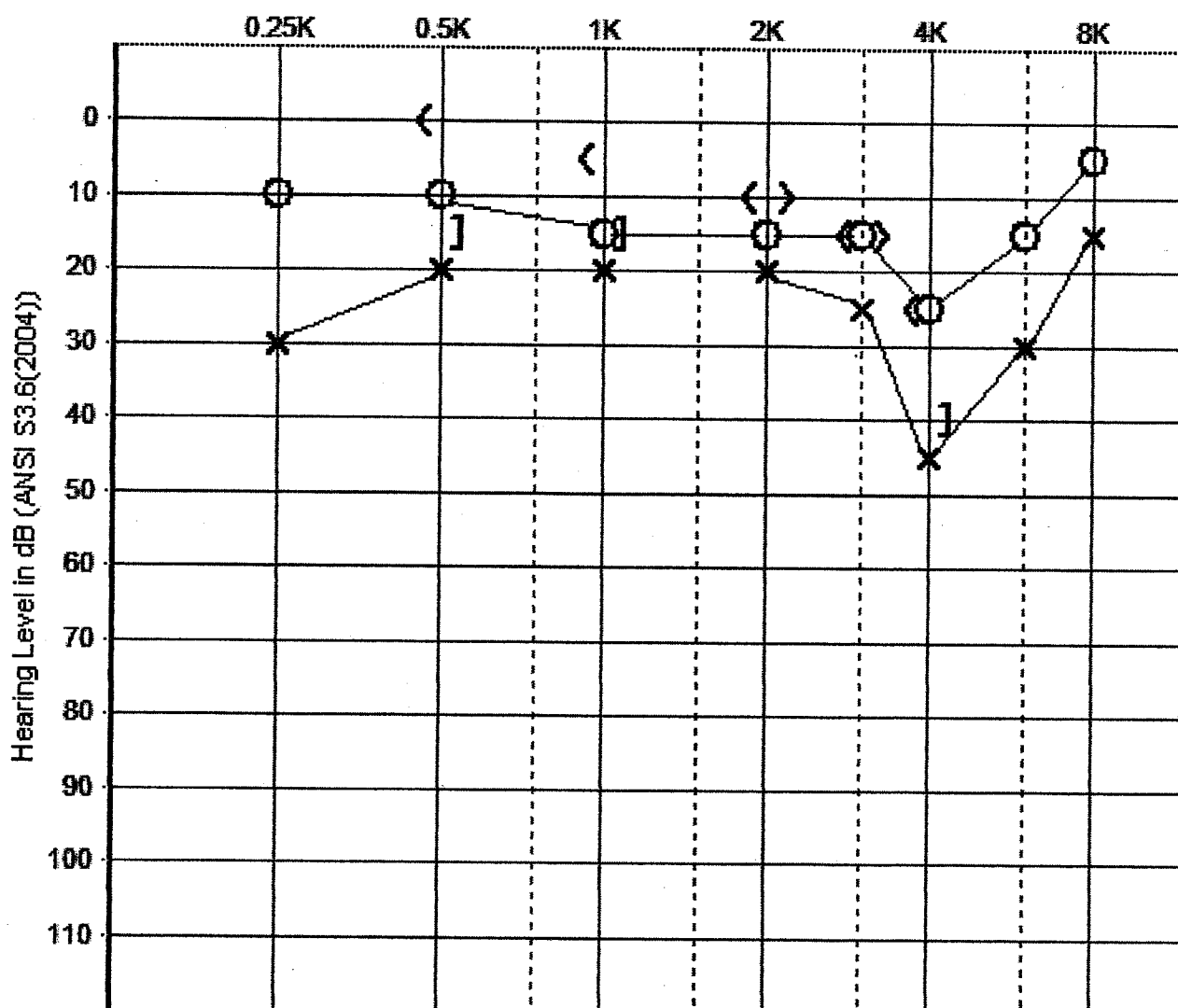
Attached is the medical documents related to the claim for hearing loss.

Ryan Lawrence

A handwritten signature in black ink, appearing to read "RL" followed by a stylized flourish.

LAWRENCE, RYAN MATTHEW (326660111) On Dec 11, 2018 Age: 41

Frequency in Hertz (Hz)



HEAVNER, BETH A; AUDIOLOGIST; at RAYMOND G. MURPHY VAMC

# Progress Notes

Printed On Dec 18, 2018

Temperature: 97.8 F [36.6 C] (12/12/2018 13:18)  
 Height: 68 in [172.7 cm] (10/15/2018 14:38)  
 Weight: 187.5 lb [85.2 kg] (12/12/2018 13:18)  
 Pain: 0 (12/12/2018 13:18)  
 Pulse Oximetry: 94 (DEC 12,2018@13:18:27)  
 Body Mass Index: 28\*

## Presenting problem:

Veteran returns today for review of his audiogram and discussion of continued tinnitus in his left ear. He reports that he continues to have nagging ringing in his ear a constant basis particularly when he is in quiet environments without background noise. He has tried some strategies to address drowning out tinnitus but is not sure if it has been effective or not. He reports that he has a continued fullness or abnormal sensation inside his head around his left ear. He says it's difficult to explain. Denies new headaches or visual changes.

## Physical exam:

Gen. alert oriented slightly anxious

Head normocephalic atraumatic

Under binocular microscopy both ears are examined ear canals were found to be clear tympanic membranes with good light reflex non-retracted without signs of effusion.

Left external ear posterior side of the lobule has a small area of erythema surrounding previous puncture where his ear piercing site was

Neck no palpable masses no lymphadenopathy

## Contributing data:

Reviewed the audiogram performed 12/11/2014. Audiogram shows bilateral mild hearing loss in both ears. Slight difference between the right and left ear of 5-10 dB. Hearing loss is non-sloping consistent across the range of 250-4000 Hz. The right ear tympanogram not performed left ear has a type A tympanogram and word discrimination scores are 100% bilaterally

## Assessment:

Veteran is a 41-year-old male with tinnitus otalgia and mild hearing loss in his left ear.

## Treatment plan:

MRI of the internal auditory canals is been ordered based on patient's vague symptoms and pain associated with tinnitus in his left ear. I'll follow up with patient once the results become available all required preliminary laboratory studies have been ordered for the MRI.

Reason for ordering test/consult/changes in meds

F/u Tx and Patient instructions

We'll call with results

/es/ ADAM NEWMAN  
 PA, ENT

## PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

LAWRENCE, RYAN MATTHEW  
 3008 LOS TOMASES DR NW  
 ALBUQUERQUE, NEW MEXICO 87107

## VISTA Electronic Medical Documentation

Printed at RAYMOND G. MURPHY VAMC

# Progress Notes

Printed On Dec 18, 2018

LOCAL TITLE: GENERAL ADMINISTRATIVE NOTE  
 STANDARD TITLE: ADMINISTRATIVE NOTE  
 DATE OF NOTE: DEC 18, 2018@09:36 ENTRY DATE: DEC 18, 2018@09:36:09  
 AUTHOR: DAVIDSON, ELIZABETH EXP COSIGNER:  
 URGENCY: STATUS: COMPLETED

I received a renewal request for vet's clonazepam. PMP done, last tox screen was clear on 9/20/18. Med renewed. I last saw him 5/30/18 and he cancelled his next visit in October, and does not have one re-scheduled. Will ask MSA to contact him to re-schedule.

/es/ ELIZABETH DAVIDSON  
 PSYCHIATRIST  
 Signed: 12/18/2018 09:38

Receipt Acknowledged By:  
 12/18/2018 10:12 /es/ DWAYNE S FLEMING  
 MSA

LOCAL TITLE: STATE PRESCRIPTION DRUG MONITORING PROGRAM  
 STANDARD TITLE: ACCOUNTING OF DISCLOSURES NOTE  
 DATE OF NOTE: DEC 18, 2018@09:33 ENTRY DATE: DEC 18, 2018@09:34:02  
 AUTHOR: DAVIDSON, ELIZABETH EXP COSIGNER:  
 URGENCY: STATUS: COMPLETED

STATE PRESCRIPTION DRUG MONITORING PROGRAM (SPDMP):  
 Purpose: VA and the SPDMP are exchanging information so that the VA provider can manage your health care. The State may use this information to monitor controlled substance prescriptions and for law enforcement purposes.  
 The State Prescription Drug Monitoring Program (SPDMP) database was reviewed prior to the prescribing/dispensing of a controlled substance.

State: Arizona, New Mexico, Texas, Colorado  
 Additional Comments: No outside controlled substance prescriptions found.  
 This progress note is not protected by 38 U.S.C. § 7332 statute.

/es/ ELIZABETH DAVIDSON  
 PSYCHIATRIST  
 Signed: 12/18/2018 09:34

LOCAL TITLE: OTOLARYNGOLOGY GENERAL F/U NOTE  
 STANDARD TITLE: OTOLARYNGOLOGY NOTE  
 DATE OF NOTE: DEC 12, 2018@16:25 ENTRY DATE: DEC 12, 2018@16:25:13  
 AUTHOR: NEWMAN, ADAM EXP COSIGNER:  
 URGENCY: STATUS: COMPLETED

Blood Pressure: 140/86 (12/12/2018 13:18)  
 Pulse: 79 (12/12/2018 13:18)  
 Respiration: 14 (12/12/2018 13:18)

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)  
 LAWRENCE, RYAN MATTHEW  
 3008 LOS TOMASES DR NW  
 ALBUQUERQUE, NEW MEXICO 87107

VISTA Electronic Medical Documentation  
 Printed at RAYMOND G. MURPHY VAMC

# Progress Notes

Printed On Dec 18, 2018

LOCAL TITLE: OTOLARYNGOLOGY GENERAL INITIAL CONSULT NOTE  
 STANDARD TITLE: OTOLARYNGOLOGY CONSULT  
 DATE OF NOTE: NOV 14, 2018@13:24 ENTRY DATE: NOV 14, 2018@13:24:24  
 AUTHOR: NEWMAN, ADAM EXP COSIGNER: SIMPSON, JOHN V  
 URGENCY: STATUS: COMPLETED

## Otolaryngology General Consult Note

Blood Pressure: 116/84 (11/14/2018 13:11)  
 Pulse: 72 (11/14/2018 13:11)  
 Respiration: 14 (11/14/2018 13:11)  
 Temperature: 97.5 F [36.4 C] (11/14/2018 13:11)  
 Height: 68 in [172.7 cm] (10/15/2018 14:38)  
 Weight: 183.1 lb [83.2 kg] (11/14/2018 13:11)  
 Pain: 0 (11/14/2018 13:11)  
 Pulse Oximetry: 93 (NOV 14, 2018@13:11:03)  
 Body Mass Index: 28\*

CHIEF COMPLAINT: decreased hearing loss and imbalance

HISTORY OF PRESENT ILLNESS: Veteran was recently seen in the emergency department 2 months ago. Prior to that he had fullness w/ hearing loss and tinnitus. They cleaned his left ear out which really did not improve his symptoms. The most bothersome is the ringing in his ear. He experiences some balance issues any time he experiences the buzzing in his ears. The buzzing happens during times of silence like bedtime. Nothing makes it go away.

## PAST MEDICAL HISTORY:

Tobacco use (SCT 110483000)  
 Shoulder pain (SCT 45326000)  
 Gout (SCT 90560007)  
 Post-traumatic stress disorder (SCT 47505003)  
 Major depression (SCT 370143000)  
 Obstructive sleep apnea (SCT 78275009)  
 Hypertension (SCT 38341003)  
 Allergic rhinitis (SCT 61582004)  
 Nondependent alcohol abuse in remission (SCT 191884001)  
 Panic Disord w/o Agoraphobia (ICD-9-CM 300.01)  
 Panic W/Agoraphobia (ICD-9-CM 300.21)  
 PTSD, Chronic (ICD-9-CM 309.81)  
 Moderate major depression (SCT 832007)  
 Personal History of Traumatic Brain Injury (ICD-9-CM V15.52)  
 Generalized Anxiety Disorder (ICD-9-CM 300.02)

## PAST SURGICAL HISTORY:

### PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

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# Progress Notes

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Pure Tone Air/Bone Test Results

Right Ear: normal hearing sensitivity

Left Ear: normal to mild SNHL with noise notch at 4K Hz

## COMMUNICATIVE IMPACT

Communicative Impact: Hearing loss will negatively impact communication in:

Adverse settings (background noise, multiple speech sources, reverberation, etc.)

ACTIONS/PLAN/FOLLOW UP" RTC PRN as needed for tinnitus

Accessories Ordered: Make/Model BST-100 to help with tinnitus while sleeping

RESULTS AND PLAN OF CARE WERE REVIEWED WITH VETERAN WHO INDICATED UNDERSTANDING AND AGREEMENT TO PLAN.

/es/ BETH A HEAVNER  
CLINICAL AUDIOLOGIST  
Signed: 12/11/2018 15:20

LOCAL TITLE: PTSD TELEPHONE CONTACT

STANDARD TITLE: PSYCHIATRY TELEPHONE ENCOUNTER NOTE

DATE OF NOTE: NOV 14, 2018@17:08

ENTRY DATE: NOV 14, 2018@17:08:17

AUTHOR: GOODKIND, MADELEINE

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

Today, I was alerted by the 1st floor MSAs that a veteran had dropped off a letter for me around 1200, and it had been placed in my mailbox. I found a letter from this veteran. In it, veteran expresses his frustration with me and another provider at the VA. In this letter, veteran alleges that my impression and by extension behavior towards him was impacted (negatively) by information I received from another provider with whom he had had multiple contacts. Because I was not in contact with another provider who this veteran sees regularly, it was not immediately apparent to whom he was alluding.

I have called the veteran twice today and both times left voicemail messages for him expressing that I was very sorry that he was upset and hoped that he would call me back so that we could discuss his concerns at more length .

I reached out to Dr. Carty who, according to the chart, seems to have discussed this matter with the veteran.

/es/ Madeleine S Goodkind, PhD  
Clinical Psychologist  
Signed: 11/14/2018 17:24

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12. Practitioner(s) performing or supervising treatment/procedure (if not listed above):
13. Witness Name(s):
14. Comments:

\*\*\* SCANNED DOCUMENT \*\*\*  
SIGNATURE NOT REQUIRED

Electronically Filed: 10/17/2018  
by: IMED USER

LOCAL TITLE: ACS PRIMARY CARE NURSING NOTE  
STANDARD TITLE: PRIMARY CARE NURSING NOTE  
DATE OF NOTE: OCT 17, 2018@13:16 ENTRY DATE: OCT 17, 2018@13:16:27  
AUTHOR: LANTZ,DONNA L EXP COSIGNER:  
URGENCY: STATUS: COMPLETED

patient reports to clinic as walk-in, states that he had gone to audiology for walk-in appointment but they would not see him for hearing loss because he also has left ear pain, pain started last month after he went to ER, describes as constant, throbbing, "drumming," says he thinks it is related to RTMS (magnet therapy) that he had done in behavioral health, denies any fever, chills, denies any bleeding or drainage, no earwax noted upon exam

/es/ DONNA L LANTZ  
RN  
Signed: 10/17/2018 13:32

LOCAL TITLE: PRIMARY CARE PROVIDER NOTE  
STANDARD TITLE: PRIMARY CARE NOTE  
DATE OF NOTE: OCT 15, 2018@15:33 ENTRY DATE: OCT 15, 2018@15:33:04  
AUTHOR: STUCKY,MICHAEL EXP COSIGNER:  
URGENCY: STATUS: COMPLETED

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)  
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Service connection: SERVICE CONNECTED % - 100

Contact person:

MENTER, JOANNE MOTHER 717 LAKE BIEW DRIVE DURANGO, CO 81301 (970)884-4815

CC: hearing loss

S: Pt report cerumen recently irrigated both ears but still has hearing loss (L > R). Denies ear pain.

Allergies: Patient has answered NKA

Meds:

Active Outpatient Medications (including Supplies):

Active Outpatient Medications	Status
1) ALBUTEROL HFA 90MCG 200D ORAL INH INHALE 2 PUFFS BY MOUTH EVERY 6 HOURS AS NEEDED FOR WHEEZING OR SHORTNESS OF BREATH. SHAKE WELL BEFORE EACH USE.	ACTIVE
2) ALLOPURINOL 300MG TAB TAKE ONE TABLET BY MOUTH DAILY . FOR GOUT.	ACTIVE
3) AMLODIPINE BESYLATE 5MG TAB TAKE ONE TABLET BY MOUTH DAILY FOR BLOOD PRESSURE	ACTIVE
4) BACLOFEN 10MG TAB TAKE TWO TABLETS BY MOUTH TWICE A DAY AS NEEDED FOR MUSCLE SPASM.	ACTIVE
5) CAMPHOR 0.5/MENTHOL 0.5% LOTION APPLY THIN LAYER TOPICALLY FOUR TIMES A DAY AS NEEDED FOR ITCHING	ACTIVE
6) CAPSAICIN 0.025% CREAM (GM) APPLY THIN LAYER TOPICALLY FOUR TIMES A DAY AS NEEDED FOR PAIN. AVOID CONTACT WITH EYES.	ACTIVE
7) CHOLECALCIFEROL (VITD3) 2,000UNIT TAB TAKE ONE TABLET BY MOUTH TWICE A DAY FOR VITAMIN D SUPPLEMENT.	ACTIVE
8) CLONAZEPAM 0.5MG TAB TAKE ONE TABLET BY MOUTH TWICE A DAY AS NEEDED FOR ANXIETY.	ACTIVE
9) FEXOFENADINE 180MG TAB TAKE ONE TABLET BY MOUTH DAILY FOR ALLERGY SYMPTOMS. (NF APPROVED 3/2017)	ACTIVE
10) FLUOXETINE 20MG CAP TAKE TWO CAPSULES BY MOUTH DAILY	ACTIVE
11) FLUTICASONE PROP 50MCG 120D NASAL INHL USE 2 SPRAYS IN EACH NOSTRIL DAILY FOR ALLERGY SYMPTOMS.	ACTIVE
12) INDOMETHACIN 50MG CAP TAKE ONE CAPSULE BY MOUTH THREE TIMES A DAY AS NEEDED FOR GOUT FLARE. TAKE WITH FOOD AND DO NOT TAKE WITH MELOXICAM.	ACTIVE
13) LIDOCAINE 4% CREAM TOP 30GM APPLY THIN LAYER TOPICALLY FOUR TIMES A DAY FOR PAIN	ACTIVE
14) MELOXICAM 15MG TAB TAKE ONE TABLET BY MOUTH DAILY AS	ACTIVE

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